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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
08 AT SEATTLE

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ANDRE R. YOUNG,) CASE NO.C07-1176-RSL
Plaintiff,)
v.)
SOCIAL SECURITY ADMINISTRATION,) REPORT AND RECOMMENDATION
Defendant.)
)
)

This matter comes before the Court on plaintiff's claim, filed in the King County District Court for the State of Washington, Small Claims division and removed to this Court by defendant on July 30, 2007. (Dkt. 1.) Defendant now moves to dismiss the case. (Dkt. 3.) Plaintiff did not respond.¹ It is recommended that the motion be granted and the case dismissed.

I. **BACKGROUND**

On July 9, 2007, plaintiff filed a Notice of Small Claim against the Social Security

¹ A failure of a party to file papers in opposition to a motion may be taken by the Court as an admission that the motion has merit. CR 7(b)(2); *Chourre v. I.R.S.*, 203 F. Supp. 1196, 1199 (W.D. Wash. 2002).

01 Administration in King County District Court, claiming that defendant owed him \$830.66 and
02 alleging that defendant had reduced his social security benefits without legal authority. (See Dkt.
03 1, Ex. A.) Defendant filed a motion to dismiss, contending that the dispute regarding the
04 reduction in benefits remains pending with the Social Security Administration, and that, therefore,
05 plaintiff has not exhausted his administrative remedies. Plaintiff has not replied to the motion to
06 dismiss and, therefore, does not contest defendant's recitation of the procedural status of the case.

07 **II. ANALYSIS**

08 This Court's jurisdiction to review an adverse determination in a claim for Supplemental
09 Security Income (SSI) benefits is based on 42 U.S.C. § 405(g), which allows a final decision of
10 the Commissioner of Social Security to be appealed to the district court of the United States for
11 the district in which the claimant resides. A decision of the Commissioner is not final until the
12 claimant has exhausted his administrative remedies. *Johnson v. Shalala*, 2 F.3d 918, 921 (9th Cir.
13 1993). After the initial application is filed, the administrative review process includes a
14 reconsideration, a hearing before an administrative law judge, and an Appeals Council review.
15 Only when these stages have been completed may the claimant request judicial review by filing an
16 action in the United States District Court. 20 C.F.R. § 404.900.

17 Here, plaintiff's social security claim is at the reconsideration stage of the administrative
18 review process. He has not yet proceeded to a hearing before an administrative law judge or
19 review by the Appeals Council. Therefore, he has failed to exhaust his administrative remedies.

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01 **III. CONCLUSION**

02 For the foregoing reasons, it is recommended that the motion to dismiss be granted and
03 this case dismissed.

04 DATED this 13th day of September, 2007.

05 
06 Mary Alice Theiler
07 United States Magistrate Judge